

FILED  
BILLINGS DIV.

2008 JUL 2 PM 1 50

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

BY PATRICK E. DARRAH, CLERK  
DEPUTY CLERK

**BEVERLY DARRAH,**

**Plaintiff,**

**vs.**

**MONTANA RETAIL STORE  
EMPLOYEES HEALTH AND  
WELFARE PLAN, ZENITH  
ADMINISTRATORS, and**

**Defendants.**

**CV-08-67-BLG-RFC**

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

On June 13, 2008, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation with respect to Defendant International Rehabilitation Associates' Motion for Judgment on the Pleadings of State Law Claims Based on ERISA Preemption (*Doc. 6*). *Doc. 10*. Magistrate Judge Ostby recommends the motion be granted, noting that Plaintiff has conceded that the demand for jury trial and request for general damages for physical pain and mental anguish may be stricken from her Complaint.

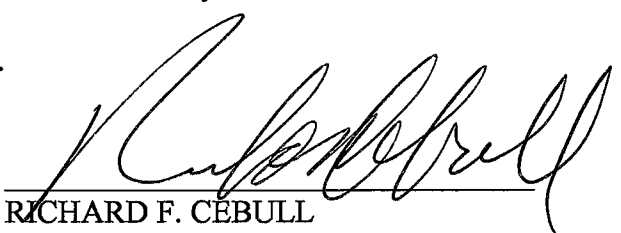
The Court finds that Magistrate Judge Ostby's Findings and Recommendation are well-grounded in law and fact and are adopted in their entirety.

Accordingly, **IT IS HEREBY ORDERED** Defendant International Rehabilitation Associates' Motion for Judgment on the Pleadings of State Law Claims Based on ERISA

Preemption (*Doc. 6*) is **GRANTED**; paragraph 4 of the prayer for relief is **STRICKEN** from the Complaint, as is the demand for jury trial.

The Clerk of Court shall notify the parties of the entry of this Order.

DATED the 2<sup>nd</sup> day of July, 2008.



RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE